

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**RECEIVED**

NOV 19 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

*In the Matter of*

INFORMATION TECHNOLOGY DEPARTMENT  
STATE OF NORTH DAKOTA  
Bismarck, North Dakota

Federal-State Joint Board on Universal Service

Changes to the Board of Directors of the  
National Exchange Carrier Association, Inc.

Schools and Libraries Universal Service  
Support Mechanism

)  
)  
) File No. SLD-245592  
)  
)  
) CC Docket No. 96-45  
)  
) CC Docket No. 97-21  
)  
)  
) CC Docket No. 02-6  
)

To The Commission

**PETITION FOR RECONSIDERATION  
AND INVOCATION OF RIGHTS UNDER  
THE PAPERWORK REDUCTION ACT, 44 U.S.C. § 3512**

**INFORMATION TECHNOLOGY DEPARTMENT  
STATE OF NORTH DAKOTA**

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November 19, 2003

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## SUMMARY

This timely filed Petition seeks reconsideration of the Commission's denial of review (Commissioners Copps and Adelstein dissenting and issuing a Joint Statement) of an Order of the Wireline Competition Bureau denying North Dakota's request for review of the SLD's rejection of FCC Form 471 applications for program Year 4 filed on behalf of all public schools in North Dakota. The sole basis of the denial was because the mailing of the Block 6 Certifications and Item 21 attachments were not "postmarked" before the end of the Year 4 filing window ending January 18, 2001.

This "NEW and FIRM" filing requirement for Year 4 mandating the mailing and "postmarking" of the paper documents by the close of the filing window was never approved by the Office of Management and Budget ("OMB"), as required by the Paperwork Reduction Act. Instead of seeking OMB approval for the "NEW and FIRM" information collection requirement, the FCC erroneously sought OMB approval only for the extension of the pre-existing requirements. Accordingly, pursuant to the express terms of the Paperwork Reduction Act, North Dakota may not be penalized for failure to adhere to the new requirement and its application is required to be considered on its merits by SLD.

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Bismarck, North Dakota	)	
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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc	)	
	)	
Schools and Libraries Universal Services	)	CC Docket No. 01-06
Support Mechanism	)	
 To The Commission		

**PETITION FOR RECONSIDERATION  
AND INVOCATION OF RIGHTS UNDER  
THE PAPERWORK REDUCTION ACT, 44 U.S.C. § 3512**

Pursuant to Section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and Section 3512 of the Paperwork Reduction Act, 44 U.S.C. § 3512, the State of North Dakota, Information Technology Department ("North Dakota"), hereby requests reconsideration of the Commission's Order, FCC 03-240, released October 21, 2003 (Commissioners Copps and Adelstein dissenting and issuing a Joint Statement)("FCC Order"), denying review of an Order of the Wireline Competition Bureau, Telecommunications Access Policy Division, DA 02-956, released April 24, 2002 ("Bureau Order")

**I. RECONSIDERATION IS REQUIRED UNDER  
THE EXPRESS PROVISIONS OF THE PAPERWORK  
REDUCTION ACT.**

Both the FCC Order and the Bureau's Order declined to review the rejection by the School and Libraries Division ("SLD") of the Universal Service Administrative Company of North Dakota's application for Year 4 funding solely because the mailing of the Block 6 Certifications and Item 21 Attachments were not postmarked before the end of the Year 4 filing window on January 18, 2001. This "postmarked" mailing deadline was a new requirement for program Year 4 which added another layer of complexity to the filing process and narrowed the filing window. In prior years, applicants filing electronically were accorded a reasonable period after the close of the filing window in which to submit the required paper documentation by mail or other mode of delivery<sup>1</sup>.

The 3-member majority FCC Order found that North Dakota had presented no special grounds to "circumvent" established program rules. Based on the finding that applicants were "explicitly informed" of the new postmarking requirement through SLD website publications and a November 6, 2000 letter to prospective applicants, the FCC Order concluded that all applicants including North Dakota should not have been confused by the new information collection requirement. And "in order for the program to be administered in an efficient and equitable basis, applicants must take responsibility for submitting a complete and timely application in accordance with program rules." FCC Order, ¶17.

In their joint dissenting statement, both Commissioners Copps and Adelstein were troubled over the "complexity and rigidity" of an application process that sometimes works to

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<sup>1</sup> For Year 3, for example, the deadline for paper documents for electronic filers was receipt by the SLD by January 31, 2000—12 days after the close of the application-filing window. See *Certification Deadline Extended, What's New at SLD web site* Section January 2000.

prevent realization of the objectives of the E-Rate Program. This was “surely the case with this application filed on behalf of the students of North Dakota.” As further summarized in their joint dissenting statement.

“The State of North Dakota filed an electronic application for E-Rate discounts within the filing window, but failed to mail signed certification until after the window closed. This oversight should not be allowed to exclude the children of North Dakota from access to the necessary tools of the Information Age ”

It is not applicants like North Dakota, but actually the FCC, that erred with respect to the new ‘postmarking’ requirement. As hereinafter shown, the imposition of this confusingly new information collection requirement violated the express statutory requirements of the Paperwork Reduction Act of 1995. Pub. L. No. 104-13, 44 U.S.C. §§ 3501, *et seq.* (hereinafter “PRA”) This new information collection requirement was not approved by the Office of Management and Budget (‘OMB’), as required by the PRA, 44 U.S.C. § 3507(h)(3). That Section provides, in pertinent part:

An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director [of the Office of Management and Budget], *unless the modification has been submitted to the Director for review and approval* under this subchapter (emphasis added).

The new “postmarking” requirement constituted such a substantive and material change. It is therefore unenforceable as a matter of law and cannot serve as the basis to deny an application.

The PRA, 44 U.S.C. § 3512(a), provides in pertinent part that “notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information . . . if - (1) the collection of information does not display a valid control number assigned by the Director [of OMB] in accordance with this subchapter. . . .” Further, subsection (b) expressly provides that “the protection accorded by this section may be raised in the form of

a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto.” North Dakota hereby expressly invokes the protections required by law with respect to the unlawful imposition of the new and unapproved information collection requirement by the SLD and FCC

The full extent of protection required by Section 3512 has been expressly recognized by the Commission in similar circumstances where the OMB approval was not obtained prior to the implementation of a revised information collection requirement. In *Portland Cellular Partnership, et al.*, 11 FCC Rcd. 19997 (1996), *aff’d sub nom, Saco River Cellular, Inc. v. FCC*, 133 F.3d 25 (D.C. Cir. 1998), *cert. denied*, 525 U.S. 813 (1998), the Commission held that an applicant whose application had been dismissed for failure to submit required financial information could not be so penalized because the information collection requirement had not been approved by OMB. As held by the Commission in *Portland Cellular Partnership*, the dismissal of an application is just the “... sort of ‘penalty’ precluded by Section 3512. See 44 U.S.C. § 3502(14), 5 C.F.R. § 1320.3(j) (1995) . . . Where an information collection requirement lacks required OMB approval, we must permit the applicant to provide or satisfy the legal conditions in any reasonable manner.” 11 FCC Rcd. at 20007-20008.<sup>2</sup>

## **II. THIS PETITION IS TIMELY FILED.**

As held by the Commission in *Portland Cellular Partnership*, the broad protections afforded by Section 3512 may be raised at any time in the administrative process, even if the petition or request would not otherwise be allowable under FCC rules or statutes governing the

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<sup>2</sup> See also *Fair Oaks Cellular Partners*, 10 FCC Rcd. 9980 (1995), and *Kent S. Foster*, 7 FCC Rcd. 7971, 7972 (1992) (“we conclude that Section 22.917(c)(5) has been so substantially and materially modified as to render the rule, as a whole, unenforceable under the PRA because of our failure to comply with PRA requirements in adopting the rule. Accordingly, we find that Petitioners’ applications should be reinstated and returned to pending status.”)

administrative process. 11 FCC Rcd. at 20001-2005. This petition is being submitted within the 30 day period in which parties may request reconsideration under Section 405 of the Communications Act and Section 1.106 of the Commission's rules and is therefore timely. Furthermore, to the extent certain provisions of Section 405 of the Communications Act or Section 1.106(b) of the Commission's rules might be construed to limit the circumstances in which a denial of an application for review by the Commission is subject to reconsideration, these provisions are superceded by the express mandate of Section 3512 - - "Congress deliberately devised a remedy enabling the public to raise PRA violations without limitation, so long as the administrative or judicial process in connection with a particular license or with a particular application continues." *Portland Cellular Partnership*, 11 FCC Rcd. at 20003.

**III. THE NEW AND MORE STRINGENT "POSTMARK" FILING REQUIREMENT FOR THE SUBMISSION OF PAPER DOCUMENTS WAS NOT APPROVED BY THE OFFICE OF MANAGEMENT AND BUDGET (OMB), AS REQUIRED BY THE PAPERWORK REDUCTION ACT.**

It is undisputed that the required "postmarking" of the Block 6 Certification and Item 21 attachments by the close of the filing window is a new requirement for program Year 4. The SLD website publication cited by the Commission is clear on that point: "Year 4 features NEW and FIRM filing requirements." FCC Order, ¶15 (emphasis in original). It is also clear that the NEW and FIRM information collection procedure constituted a substantial change from past procedures, which made the filing process more difficult, risky and burdensome. The new and OMB unapproved requirement made two significant changes. First, to be considered timely, everything had to be done by the close of the filing window. Second, instead of defining completion as SLD receipt of the mailed documents, the website directions narrowed the



definition of completion to being placed in the mail and "postmarked" by the close of the window. To comply, applicants were thus required to adjust their existing compliance procedures and obtain, file and retain new paperwork – the postmark of the mailing.<sup>3</sup>

The magnitude of the change is shown both by the estimated 3,000 applicants who failed to note and follow the new information collection procedure and the draconian penalty imposed, the automatic rejection of the application. While the FCC Order attempts to minimize the impact of the change and, indeed, paint it as a benefit to applicants (FCC Order, n. 13), the plain fact is that the NEW and FIRM requirement added a further level of complexity to an already difficult to navigate process that disadvantaged thousands of applicants.<sup>4</sup>

The new requirement constituted a substantive and material change in an "information collection" requirement with the scope of the Paperwork Reduction Act. Under OMB rules, a collection of information is broadly defined to include "any requirement or request for persons to obtain, maintain, retain, report, or publicly disclose information." 5 C.F.R. § 1320.3(c). Further included within the definition is both "the act of collecting and disclosing information" and any "plan and/or other instrument calling for the collection or disclosure of information . . ." 5 C.F.R. §§ 1320.3(c).

Furthermore, Section 3502(2) of the PRA, 44 U.S.C. § 3502(2), specifically defines the "burden" that the PRA is intended to minimize to include the transmitting of the information and the adjusting of existing procedures to comply with a changed information collection.

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<sup>3</sup> In several cases, the FCC has emphasized the importance of retaining the new paperwork to prove compliance. See, e.g., *Jaffrey-Rindge Cooperative School District*, DA 02-1227, released May 23, 2002, ¶ 4.

<sup>4</sup> At this point, over 15 appeals of this new requirement by disadvantaged applicants have been denied by the FCC. In addition, North Dakota is aware of at least two pending requests for FCC review of the new requirement that have expressly advised the Commission of its failure to implement the new requirement in a lawful manner under the PRA. See Request for Review, filed June 7, 2001 by Madera Unified School District, and Request for Review and Waiver, filed September 7, 2001 by Consorcio de Escuelas y Bibliotecas de Puerto Rico. These pending requests for review have not been acted upon within the 180 day period required by Section 54.724 of the Commission's Rules to the further disadvantage of applicants.

requirement. Specifically, Section 3502(2) provides that a “burden” within the scope of the PRA includes

- “reviewing instructions,” (44 U.S.C. § 3502(2)(A))
- “adjusting the existing ways to comply with any previous applicable instructions and requirements,” (44 U.S.C. § 3502(2)(C))
- “transmitting, or otherwise disclosing the information;” (44 U.S.C. § 3502(2)(F)).

By these and other “descriptive examples of actions that constitute burden imposed by collections of information . . .” Congress intended the PRA “to cover all burdens associated with information collection.” Paperwork Reduction Act of 1995, *H. R. Rep. No. 104-37*, 104<sup>th</sup> Cong., 1<sup>st</sup> Sess., p. 35.

What then did the FCC do to obtain OMB review of, and approval for, the substantial change in information collection requirements? The simple answer is not a thing. While the new requirement was publicized by SLD in the context of certain website and other informal documents,<sup>5</sup> OMB was never asked to review or approve the new and more burdensome requirement before it was instituted. Neither the website announcement of a NEW and FIRM Form 471 filing requirement, nor the November 6<sup>th</sup> mailing to prospective applicants relied upon in the FCC Order, were reviewed or approved by OMB.<sup>6</sup>

Rather, for Year 4 Form 471 filings, OMB approval was requested only for an extension of the previously approved Form 471 and collection procedures for program Year 3. Exhibit A

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<sup>5</sup> Form 471 Minimum Processing Standards and Filing Requirements for FY4, Filing Requirements for Forms 471 Filed Manually and Online, Items 1 and 3, Tips For Completing Your Form 471, Tip 2, and Pitfalls to Avoid in Filing Form 471, Items 1 and 3. To the best of our knowledge, none of these documents imposing the additional and more restrictive filing requirement was approved by OMB under the Paperwork Reduction Act or bore an OMB Control Number and other required notifications as required by 44 U.S.C. § 3507(a)(1)(3).

<sup>6</sup> OMB approval requirements apply not only to an information collection form such as Form 471, but also to any other action imposing new or modified information collection requirements, including the adoption of a rule or issuance of a letter or other publication. 5 C.F.R. § 1320.3(e), and *Portland Cellular Partnership*, 11 FCC Rcd. at 20006.

attached hereto is a copy of the FCC's Paperwork Reduction Act Submission (OMB 83-1), dated July 21, 2000, with respect to the FCC Form 470 and 471 (OMB Control Number 3060-0806) information collection for program Year 4. Therein, approval was sought in item 3 only for the "extension of a currently approved collection." The instructions to the OMB form which are included as Exhibit B indicate that the Extension box is to be checked "when the collection is currently approved by OMB, and the agency wishes only to extend the approval past the current expiration date without making any material change in the collection instruments, instructions, frequency of collection, or the use to which the information is put." Instruction 3c. This is to be contrasted to the instructions directing the agency to request a revision in a currently approved collection requirement for a "material change to the collection instrument, instructions, its frequency of collection . . ." Instruction 3b. It is also noteworthy that FCC's application sought continued approval not to display the OMB approval expiration date on the form, as that would require the destruction of unused forms. This request further suggests the continuing use of the then current form and instructions with no changes whatsoever.

Thereafter, public notice of the FCC's request for an extension of the previously approved OMB Information Collection was given in the Federal Register on July 28, 2000. This notice is attached as Exhibit C. Again, only an "extension of a currently approved collection" was publicly noticed. And it was this request for extension of the then existing Form 471 collection requirement that was approved by OMB by letter dated September 1, 2000 (Exhibit D hereto). With respect to the 471 application form for Year 4 used by North Dakota and other applicants in the filing window, no further application or request for change was submitted to OMB.

The previously information collection requirement for which the FCC requested and received an extension from OMB for the Year 4 Form 471 application provided as follows, in pertinent part, with respect to the submission of paper documentation:

**Electronic Filing Instructions** You may complete and submit the Form 471 by filing the Form electronically online at the SLD Web Site, <www.sl.universalservice.org> If filing your Form 471 electronically, you must also complete and mail to the SLD the following documents in order to successfully complete the submission of your Form 471 application.

- the Item (21) description(s) of services, and
- a paper copy of the Block 6 Certification, completed and signed with an original ink signature.

The pertinent section of the Year 3 Instructions is attached as Exhibit E. Obviously, on its face, it imposed no firm or specific deadline for the submission of paper documentation, let alone a requirement the submission be “postmarked” prior to the close of the filing window. Rather, it only advised applicants of the need to submit the paper documentation to complete the process, without specifying any deadline or required mode of submission by the close of the filing window.<sup>7</sup>

Because OMB approval for the NEW and FIRM information collection procedure was neither requested nor obtained, the SLD website and other publications that purported to communicate the changed information collection requirements obviously could not have displayed a “valid control number” as required by the PRA. The violation is further compounded by the failure of the SLD website and other documentation relied upon in the FCC

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*It should also be noted that one modification was made without OMB approval in the actual set of Instructions accompanying the Form 471 for Year 4. The final sentence in the first quoted paragraph above was revised to read: “If filing your Form 471 electronically, you must also complete and mail to the SLD the following documents in order to successfully complete the submission of your Form 471 application within the application window.” This modified text did not specify a time deadline for the submission of the paper documents, nor describe the NEW and FIRM “postmarking” requirement posted on the SLD website.*

Order to display any control number, whether valid or invalid, and advise potential applicants of their rights under PRA. Neither the website publication, nor to the best of North Dakota's knowledge the November 6<sup>th</sup> Letter, included an OMB control number or other required PRA disclosures in further violation of 44 U.S.C. § 3512(b).

Nor for that matter did the electronic version of the Form 471 used by North Dakota to file its application display any control number, valid or otherwise. As shown in Exhibit F, no OMB control number is displayed on any portion of the electronic version of the form. The failure to display any control number, by itself, is a violation of the PRA and the express conditions attached by OMB to the use of Form 471. See Exhibit D, Paperwork Review Worksheet, p 2. Even if OMB approval for the new "postmarking" had been obtained (which is not the case), the basic requirements of PRA would not have been satisfied in this instance.

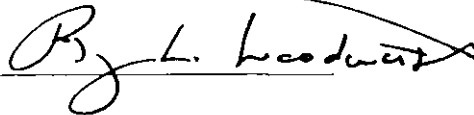
### **III. CONCLUSION.**

One of the primary purposes of the PRA and the OMB review and approval process is to "minimize the paperwork burden for State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government," 44 U.S.C. § 3501(1). In this case, the PRA process was circumvented and a new and more burdensome requirement hastily imposed with no independent OMB review. The issue is not what OMB would have done, were it given the opportunity to review the change, or whether applicants had "explicit notice," but that the review process required by statute was circumvented. Just as the FCC expects its applicants to "comply with program rules" (FCC Order, ¶11), the public has a right to expect the FCC to comply with laws enacted by Congress to ensure fair and reasonable information collection requirements.

For these reasons, the rejection of North Dakota's application is wrong as a matter of law under the clear and express requirements of the Paperwork Reduction Act and must be reversed. The SLD should be directed to reinstate North Dakota's application for normal consideration as a timely filed application within the Year 4 filing window

Respectfully submitted,

**INFORMATION TECHNOLOGY DEPARTMENT  
STATE OF NORTH DAKOTA**

By: 

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Its Attorney

November 19, 2003

**EXHIBIT A**

PAPERWORK REDUCTION ACT SUBMISSION (OMB FORM 83-1, OMB CONTROL 3060-0806, FCC FORMS 470 and 471), DATED JULY 20, 2000, FOR EXTENSION OF CURRENTLY APPROVED COLLECTION

# PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two (2) copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17<sup>th</sup> Street, NW Washington, DC

1. Agency/Subagency originating request Federal Communications Commission Common Carrier Bureau		2. OMB control number a. 3050 - 0806 b. <i>None</i>	
3. Type of information collection (check one) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input checked="" type="checkbox"/> Extension of currently approved collection d. <input type="checkbox"/> Reinstatement without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without OMB control number For b-f, note Item A2 of Supporting Statement Instructions		4. Type of review requested (check one) a. <input checked="" type="checkbox"/> Regular Submission b. <input type="checkbox"/> Emergency - Approval requested by <i>1/2/01</i> c. <input type="checkbox"/> Delegated	
		5. Will this information collection have a significant impact on a substantial number of small entities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		6. Requested expiration date a. <input checked="" type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other: _____	
7. Title Universal Service - Schools and Libraries Universal Service Program			
8. Agency form number(s) (if applicable) FCC Forms 470 and 471			
9. Keywords reporting requirements, universal service, support, schools, libraries, telecommunications carriers, Telecommunications Act of 1996			
10. Abstract The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC Form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, Internet access, and internal connections. The information is used to determine eligibility.			
11. Affected public (Mark primary with "P" and all others that apply with "X") a. <input type="checkbox"/> Individuals or household b. <input checked="" type="checkbox"/> Business or other for-profit c. <input checked="" type="checkbox"/> Not-for-profit institutions d. <input type="checkbox"/> Farms e. <input type="checkbox"/> Federal Government f. <input checked="" type="checkbox"/> State, Local or Tribal Government		12. Obligation to respond (check one) a. <input type="checkbox"/> Voluntary b. <input checked="" type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory	
13. Annual recordkeeping and reporting hour burden a. Number of respondents <u>60,000</u> b. Total annual responses <u>60,000</u> 1. Percentage of those responses Collected electronically <u>90</u> % c. Total annual hours requested <u>440,000</u> d. Current OMB inventory <u>440,000</u> e. Difference (+, -) <u>0</u> f. Explanation of difference 1. Program change (+, -) <u>0</u> 2. Adjustment (+, -) <u>0</u>		14. Annual reporting and recordkeeping cost burden (in thousands of dollars) a. Total annualized capital/startup costs <u>0</u> b. Total annual costs (O&M) <u>0</u> c. Total annualized cost requested <u>0</u> d. Current OMB inventory <u>0</u> e. Difference (+, -) <u>0</u> g. Explanation of difference 1. Program change (+, -) <u>0</u> 2. Adjustment (+, -) <u>0</u>	
15. Purpose of information collection (Mark primary with "P" and all others that apply with "X") a. <input checked="" type="checkbox"/> Application for benefits b. <input type="checkbox"/> Program evaluation c. <input type="checkbox"/> General purpose statistics d. <input type="checkbox"/> Audit e. <input type="checkbox"/> Program planning or management f. <input type="checkbox"/> Research g. <input checked="" type="checkbox"/> Regulatory or compliance		16. Frequency of recordkeeping or reporting (check all that apply) a. <input checked="" type="checkbox"/> Recordkeeping b. <input checked="" type="checkbox"/> Third Party Disclosure c. <input checked="" type="checkbox"/> Reporting: 1. <input checked="" type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other	
17. Statistical methods Does this information collection employ statistical methods?  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		18. Agency contact (person who can best answer questions regarding the content of this submission).  Name: <u>Adrian Wright</u> Phone: <u>202-418-0854</u>	



OMB CONTROL NUMBER:

3060- 0806

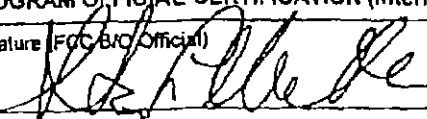
TITLE

Universal Service - Schools and Libraries Universal Service Program

## 19. Certification for Paperwork Reduction Act Submission

## A. PROGRAM OFFICIAL CERTIFICATION (Internal FCC Use Only)

(1) Signature (FCC B/C Official)



(2) Date

7/10/00

On behalf of this Federal agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8 (b)(3), appear at the end of the instructions. The certification is to be made with reference to those regulatory provisions as set forth in the instructions

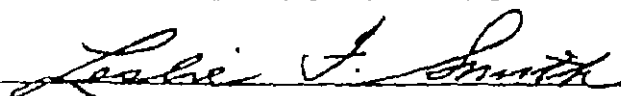
The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It uses plain, coherent, and unambiguous language that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention periods for recordkeeping requirements;
- (g) It informs respondents of the information called for under section 5 CFR 1320.8(b)(3) about:
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate
  - (iv) Nature of response (voluntary, required for a benefit, or mandatory)
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number.
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in item 19 of the instructions);
- (i) It uses effective and efficient statistical survey methodology (if applicable), and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

## B. SENIOR OFFICIAL OR DESIGNEE CERTIFICATION

(1) Signature (FCC OMD)



(2) Date

JUL 21 2000

### SUPPORTING STATEMENT

FCC Universal Service Forms: FCC Form 470 and Form 471.

A. Justification

1. On November, 8, 1996, the Joint Board released a recommended Decision in which it made recommendations to assist and counsel the Commission in the creation of an effective universal support mechanism that would ensure that the goals of affordable, quality service and access to advanced services are met by means that enhance competition. On May 8, 1997, the Commission adopted rules providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit FCC Forms 470 and 471.

a. Submission of FCC Form 470 "Description of Service Requested and Certification."

Schools and libraries ordering telecommunications services, Internet access, and internal connections under the universal service discount program must submit a description of the services desired to the Administrator. Schools and libraries may use the same description they use to meet the requirement that they generally face to solicit competitive bids. The Administrator will post those Form 470 forms that request new services on a website for all potential competing service providers to see and respond to as if they were requests for proposals (RFPs). 47 C.F.R. § 54.505(b)(2), 47 C.F.R. § 54.504 (b)(3). Pursuant to section 254(h) of the Telecommunications Act of 1996, 47 U.S.C. § 254 (h), schools and libraries must certify under oath that: (1) the school or library is an eligible entity under section 254(h)(4); (2) the services requested will be used solely for education purposes; (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value; and (4) if the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-purchasers and the portion of the services being purchased by the school or library. 47 C.F.R. § 54.504(b)(2). For schools ordering telecommunications services at the individual school level (i.e., primarily non-public schools), the person ordering such services should certify to the Administrator the percentage of students eligible in that school for the national school lunch program (or the other acceptable indicators of economic disadvantage determined by the Commission). This requirement arises in the context of determining which schools are eligible for greater discounts being offered to economically disadvantaged schools. For schools ordering telecommunications services at the school district level, the person ordering such services for the school district should certify to the Administrator the number of students in each of its schools eligible for the national school lunch program (or the other acceptable

indicators of economic disadvantages). This requirement also arises in the context of determining which schools are eligible for greater discounts being offered to economically disadvantaged schools. 47 C.F.R. § 54.505(b)(1). Schools and libraries must also certify that they have developed a technology plan that has been approved by an authorized entity. The technology plan should demonstrate that the applicant will be able to deploy any necessary hardware, software, and wiring, and to undertake any necessary teacher training required to use effectively the services ordered pursuant to the section 254(h) discount. 47 C.F.R. § 54.504(b)(2).

b. Submission of FCC Form 471 "Services Ordered and Certification."

Schools and libraries that have ordered telecommunication services, Internet access, and internal connections under the Universal Service Mechanism for Schools and Libraries must file FCC Form 471 with the Administrator. Form 471 requires schools and libraries to list all services that have been ordered and the funding needs for the current funding year. 47 C.F.R. § 54.504(b)(2). This form also gathers information from schools and libraries about the technology currently available to the entity and what is made possible by their application for universal service fund discounts.

- 2 All schools and libraries planning to order services eligible for universal service discounts must file FCC Forms 470 and 471. The purpose of this information is to help determine which schools and libraries are eligible for the greater discounts. Schools and libraries must certify to the Administrator that they have developed an approved technology plan via Form 471. This requirement is designed to help schools and libraries avoid the waste that might arise from requests for services that the schools and libraries would be unable to use for the educational purposes intended.
- 3 Applicants will be able to electronically file or mail their submissions. Copies of the forms will be available via the Administrator's website.
4. There will be no duplication of information. The information sought is unique to each respondent and similar information is not already available.
- 5 Entities directly subject to the requirements in the forms are primarily schools and libraries. The forms have been designed to impose the least possible burden on the respondents.
6. Failing to collect the information, or collecting it less frequently, would prevent the Commission from implementing section 254 of the 1996 Act and ensuring that the goals of affordable service and access to advanced services are met by means that enhance, rather than distort, competition.
7. Applicants are required to retain certain filings for five years. The records are needed in case the applicant is audited. If an applicant is audited, it should be able to demonstrate to the auditor how the entries in its application were provided.

8. Pursuant to 5 CFR 1320.8, the Commission placed a notice in the Federal Register. See 65 FR 3234, January 20, 2000. (Copy attached). No comments were received.
9. There will be no payments or gift to respondents.
10. The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondents believe is confidential, respondents may request confidential treatment of such information under section 0.459 of the Commission's rules.
11. There are no questions of a sensitive nature with respect to the information collected.
12. The following represents the hour burden on the collections of information:
  - a. Submission of FCC Form 470 "Description of Service Requested and Certification."
    - (1) Number of respondents: Approximately 50,000 public school districts, private schools and public library systems.
    - (2) Frequency of response: On occasion. Each school and library must submit FCC Form 470, describing the services desired, to the Administrator.
    - (3) Annual burden per response: 4 hours. The total annual hour burden is 200,000 hours. This estimate includes the time needed for complying with the record retention requirement.
    - (4) Total estimate of the annualized cost to respondents for the hour burdens for collection of information: \$8,000,000.
    - (5) Explanation of calculation: We estimate that this obligation will take approximately 4 hours and will occur once a year for 50,000 schools and libraries.  $50,000$  (number of respondents)  $\times$   $1$  (number of submissions required)  $\times$   $4$  (hours to prepare form, including time for reading instructions)  $\times$   $\$40$  per hour (including administrative staff time and overhead) =  $\$8,000,000$ .
  - b. Submission of FCC Form 471 "Services Ordered, Certification, and Termination."
    - (1) Number of respondents: Approximately 60,000 public school districts, private schools and public library systems.
    - (2) Frequency of response: On occasion. Each school and library must submit FCC Form 471, describing the services desired, to the Administrator.
    - (3) Annual burden per response: 4 hours. The total annual hour burden is 240,000 hours. This estimate includes the time need for complying with the record retention requirement.
    - (4) Total estimate of the annualized cost to respondents for the hour burdens for collection of information: \$9,600,000.
    - (5) Explanation of calculation: We estimate that this obligation will take approximately 4 hours and will occur once a year for 60,000 schools and libraries.  $60,000$  (number of respondents)  $\times$   $1$  (number of submissions

required) x 4 (hours to prepare form, including time for reading instructions) x \$40 per hour (including administrative staff time and overhead) = \$9,600,000.

Total Annual Burden = 200,000 + 240,000 = 440,000 burden hours.

13. (1) Total capital start-up costs component annualized over its expected useful life: \$0. The collections will not require the purchase of additional equipment.  
(2) Total operation and maintenance and purchase of service component: \$0. The collections will not result in additional operation or maintenance expenses.
  14. There will be few, if any costs to the Commission because notice and enforcement requirements are already part of Commission duties. Moreover, there will be minimal cost to the Federal government since an outside party will administer this program.
  15. The public burden for the collections contained herein continues to be 440,000 burden hours. The collections are necessary to implement the universal service discount program for schools and libraries.
  16. The Commission will make the information required by 47 C.F.R. § 54.504 publicly available on the Internet. Other non-proprietary information will likely be made publicly available although the Commission does not have specific plans for doing so at this time.
  17. The Commission seeks continued approval to not display the expiration date for OMB approval of the information collections. Display of the expiration date on the forms and instructions would not be in the public interest because, after the six-month approval period, we would have to destroy all of the unused forms bearing the six-month expiration date. This would constitute waste and would not be cost effective.
  18. Applicants are required to retain certain records longer than three years. Applicants must retain records to be able to demonstrate to the auditor how the entries in their application were provided.
- B. Collections of Information Employing Statistical Methods.

The Commission does not anticipate that the collection of information will employ statistical methods.

**EXHIBIT B**

OMB FORM 83-1 INSTRUCTIONS

## Instructions For Completing OMB Form 83-1

Please answer all questions and have the Senior Official or designee sign the form. These instructions should be used in conjunction with 5 CFR 1320, which provides information on coverage, definitions, and other matters of procedure and interpretation under the Paperwork Reduction Act of 1995.

### 1. Agency/Subagency originating request

Provide the name of the agency or subagency originating the request. For most cabinet-level agencies, a subagency designation is also necessary. For non-cabinet agencies, the subagency designation is generally unnecessary.

### 2. OMB control number

- a. If the information collection in this request has previously received or now has an OMB control or comment number, enter the number.
- b. Check "None" if the information collection in this request has not previously received an OMB control number. Enter the four digit agency code for your agency.

### 3. Type of information collection (check one)

- a. Check "New collection" when the collection has not previously been used or sponsored by the agency.
- b. Check "Revision" when the collection is currently approved by OMB, and the agency request includes a material change to the collection instrument, instructions, its frequency of collection, or the use to which the information is to be put.

c. Check "Extension" when the collection is currently approved by OMB, and the agency wishes only to extend the approval past the current expiration date without making any material change in the collection instrument, instructions, frequency of collection, or the use to which the information is to be put.

d. Check "Reinstatement without change" when the collection previously had OMB approval, but the approval has expired or was withdrawn before this submission was made, and there is no change to the collection.

e. Check "Reinstatement with change" when the collection previously had OMB approval, but the approval has expired or was withdrawn before this submission was made, and there is change to the collection.

f. Check "Existing collection in use without OMB control number" when the collection is currently in use but does not have a currently valid OMB control number.

### 4. Type of review requested (check one)

- a. Check "Regular" when the collection is submitted under 5 CFR 1320.10, 1320.11, or 1320.12 with a standard 60 day review schedule.
- b. Check "Emergency" when the agency is submitting the request under 5 CFR 1320.13 for emergency processing and provides the required supporting material. Provide the date by which the agency requests approval.
- c. Check "Delegated" when the agency is submitting the collection under the conditions OMB has granted the agency delegated authority.

### 5. Small entities

Indicate whether this information collection will have a significant impact on a substantial number of small entities. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation, (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field, or (3) a small government jurisdiction which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

### 6. Requested expiration date

- a. Check "Three years" if the agency requests a three year approval for the collection.
- b. Check "Other" if the agency requests approval for less than three years. Specify the month and year of the requested expiration date.

### 7. Title

Provide the official title of the information collection. If an official title does not exist, provide a description which will distinguish this collection from others.

### 8. Agency form number(s) (if applicable)

Provide any form number the agency has assigned to this collection of information. Separate each form number with a comma.

### 9. Keywords

Select and list at least two keywords (descriptors) from the "Federal Register Thesaurus of Indexing Terms" that describe the subject area(s) of the information collection. Other terms may be used but should be listed after those selected from the thesaurus. Separate keywords with commas. Keywords should not exceed two lines of text.

### 10. Abstract

Provide a statement, limited to five lines of text, covering the agency's need for the information, uses to which it will be put, and a brief description of the respondents.

### 11. Affected public

Mark all categories that apply, denoting the primary public with a "P" and all others that apply with "X."

### 12. Obligation to respond

Mark all categories that apply, denoting the primary obligation with a "P" and all others that apply with "X."

- a. Mark "Voluntary" when the response is entirely discretionary and has no direct effect on any benefit or privilege for the respondent.
- b. Mark "Required to obtain or retain benefits" when the response is elective, but is required to obtain or retain a benefit.
- c. Mark "Mandatory" when the respondent must reply or face civil or criminal sanctions.

### 13. Annual reporting and recordkeeping hour burden

- a. Enter the number of respondents and/or recordkeepers. If a respondent is also a recordkeeper, report the respondent only once.
- b. Enter the number of responses provided annually. For recordkeeping as compared to reporting activity, the number of responses equals the number of recordkeepers.
- b1. Enter the estimated percentage of responses that will be submitted/collected electronically using magnetic media (i.e., diskette), electronic mail, or electronic data interchange. Facsimile is not considered an electronic submission.
- c. Enter the total annual recordkeeping and reporting hour burden.
- d. Enter the burden hours currently approved by OMB for this collection of information. Enter zero (0) for any new submission or for any collection whose OMB approval has expired.
- e. Enter the difference by subtracting line d from line c. Record a negative number (d larger than c) within parentheses.

f. Explain the difference. The difference in line e must be accounted for in lines f1 and f2.

f1. "Program change" is the result of deliberate Federal government action. All new collections and any subsequent revision of existing collections (e.g., the addition or deletion of questions) are recorded as program changes.

f2. "Adjustment" is a change that is not the result of a deliberate Federal government action. Changes resulting from new estimates or action not controllable by the Federal government are recorded as adjustments.

### 14. Annual reporting and recordkeeping cost burden (in thousands of dollars)

The costs identified in this item must exclude the cost of hour burden identified in Item 13.

- a. Enter the total dollar amount of annualized cost for all respondents of any associated capital or start-up costs.
- b. Enter recurring annual dollar amount of cost for all respondents associated with operating or maintaining systems or purchasing services.
- c. Enter total (14 a. + 14 b.) annual reporting and recordkeeping cost burden.
- d. Enter any cost burden currently approved by OMB for this collection of information. Enter zero (0) if this is the first submission after October 1, 1995.
- e. Enter the difference by subtracting line d from line c. Record a negative number (d larger than c) within parentheses.

f. Explain the difference. The difference in line e must be accounted for in lines f1 and f2.

f1. "Program change" is the result of deliberate Federal government action. All new collections and any subsequent revisions or changes resulting in cost changes are recorded as program changes.

**EXHIBIT C**

FCC PUBLIC NOTICE OF PAPERWORK REDUCTION ACT SUBMISSION, 65 F.R. 46459,  
JULY 28, 2000



[Federal Register July 28, 2000 (Volume 65, Number 146)]  
 [Notices]  
 [Page 46459 46460]  
 From the Federal Register Online via GPO Access [wais access gpo.gov]  
 [DOCID: f128jy00-65]

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB  
 for Review and Approval

July 20 2000

**SUMMARY** The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate, (c) ways to enhance the quality, utility, and clarity of the information collected, and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES** Written comments should be submitted on or before August 28, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES.** Direct all comments to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to [lesmith@fcc.gov](mailto:lesmith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT** For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at [lesmith@fcc.gov](mailto:lesmith@fcc.gov).

**SUPPLEMENTARY INFORMATION**

OMB Control Number 30x0-0783

Title 47 CFR Section 90.176, Coordination Notification

Requirements on Frequencies Below 512 MHz

Form Number N/A

Type of Review Extension of a currently approved collection.

Respondents Business or other for-profit entities

Number of Respondents 15

Estimate Time Per Response 0.25 hours (multiple responses/annum)

Frequency of Response On occasion reporting requirements; Third party disclosure

Total Annual Burden 975 hours.

Total Annual Costs None

Needs and Uses The reporting requirement in 47 CFR Section 90.176 is a result of comments sought in the Report and Order and Further Notice of Proposed Rule Making in PR Docket No. 92-235 and requires

each Private Land Mobile frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and, if requested, an engineering analysis. This requirement is necessary to avoid situations where harmful interference is created because two or more coordinators recommend the same frequency in the same area at approximately the same time to different applicants.

OMB Control Number. 3060-0806

Title Universal Service--Schools and Libraries Universal Service Program

Form Numbers **FCC 470 and 471**

Type of Review: Extension of a currently approved collection.

Respondents Not-for-profit institutions, Business or other for-profit entities, and State, local, or Tribal Government

Number of Respondents 60,000

Estimate Time Per Response: 7.3 hours (avg ).

Frequency of Response: Recordkeeping; On occasion reporting requirements, Third party disclosure

Total Annual Burden 440,000 hours

Total Annual Costs. None

Needs and Uses The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via **FCC Form 470**. **FCC Form 471** is submitted by schools and libraries that have ordered telecommunications services, Internet access, and internal connections.

[[Page 46460]]

Federal Communications Commission

Magalie Roman Salas,

Secretary

[FR Doc 00-19045 Filed 7-27-00, 8:45 am]

BILLING CODE 6712-01-P

**EXHIBIT D**

OMB APPROVAL OF FCC PAPERWORK ACT SUBMISSION, DATED SEPTEMBER 1,  
2000

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Judy Boley  
Federal Communications Commission  
445 12th Street SW.  
Room 1-C804  
Washington, DC 20554

09/01/2000

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 07/21/2000.

TITLE: Universal Service - Schools and Libraries  
Universal Service Program

AGENCY FORM NUMBER(S): FCC-470, FCC-471

ACTION : Approved  
OMB NO.: 3060-0806  
EXPIRATION DATE: 09/30/2003

BURDEN	RESPONSES	BURDEN HOURS	BURDEN COSTS
Previous	60,000	440,000	0
New	60,000	440,000	0
Difference	0	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

---

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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Sent electronically, 09/05/2000 14:13:04

PAPERWORK ACTION SUMMARY

01 SEP 2000  
PAGE 1

OMB NUMBER: 3060-0806

EXP DATE : 3 Yrs

TITLE : Universal Service - Schools and Libraries Universal Service  
Program

ACTION TAKEN: Approved

CHANGES FROM AGENCY SUBMISSION:

NONE

NEW TERMS OF CLEARANCE: NONE

NOTES: *This collection is used by the Commission to determine the  
eligibility of schools and libraries ~~to receive~~ for the universal service fund.  
No further comments received.*

SIGNATURES AND DATES:

DESK OFFICER

OIRA

*Edward C. Ferguson*

DATE: *9/11/00*

DATE: \_\_\_\_\_

PAPERWORK REVIEW WORKSHEET

21 JUL 2000  
PAGE 1

OMB NUMBER : 3060-0806  
REVIEW TYPE: Regular  
I.C. TYPE : Extension

RECEIVED: 07/21/2000  
DUE DATE: 09/19/2000  
DESK OFFICER: Edward C. Springer

AGENCY : Federal Communications Commission  
-----

TITLE: Universal Service - Schools and Libraries Universal Service  
Program

AGENCY FORM NUMBER(S): FCC-470,FCC-471

KEYWORDS: REPORTING REQUIREMENTS  
UNIVERSAL SERVICE  
SUPPORT  
SCHOOLS  
LIBRARIES  
TELECOMMUNICATIONS CARRIERS  
TELECOMMUNICATIONS ACT OF 1996

ABSTRACT: The Commission adopted rules providing support for all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC Form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, internet access, and internal connections. The information is used to determine eligibility.

OBLIGATION TO RESP: P Required for benefits

SMALL ENTITIES: No  
STATISTICAL METHODS: No

AFF PUB: P Not-for-profit institutions  
Business or other for-profit  
State, local or Tribal Government

PURPOSE: P Appl for benefits  
Reg or compliance

REQUIREMENTS: Recordkeeping  
Third party disclosure  
Reporting frequency:  
On occasion

## PAPERWORK REVIEW WORKSHEET

21 JUL 2000  
PAGE 2

OMB NUMBER: 3060-0806

TITLE: Universal Service - Schools and Libraries Universal Service  
Program

	CURRENT RECORD	REQUEST
EXPIRATION DATE:	07/31/2000	3 Yrs
ANNUAL HOUR BURDEN:		
Number of respondents	60,000	60,000
Total annual responses	60,000	60,000
% Collected electronically	90 %	90 %
Burden Hours	440,000	440,000
Difference		0
Explanation of Difference		
1. Program Change		0
2. Adjustment		0

	CURRENT RECORD	REQUEST
ANNUAL COST BURDEN:		
Capital/Startup Costs	0	0
Annual Costs (O&M)	0	0
Total Annualized Cost	0	0
Difference		0
Explanation of difference		
1. Program change		0
2. Adjustment		0

LAST ACTION: Emergency Extension

LAST ACTION DATE: 06/21/2000

## EXISTING TERMS OF CLEARANCE:

This information collection is approved subject to the following  
term of clearance:

1. On both FCC Form 470 and on FCC Form 471, the FCC shall clearly display at the top of the forms the following PRA disclosure statement: "An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection is #3060-0806."

## **EXHIBIT E**

FCC FORM 471, YEAR 3 INSTRUCTIONS



**Schools and Libraries Universal Service  
Services Ordered and Certification Form**

Estimated Average Burden Hours Per Response 4 hours

**Instructions for Completing the  
Schools and Libraries Universal Service  
Services Ordered and Certification Form (FCC Form 471)****CONTENTS**

	<b>Notice to Individuals</b>	<b>page 1</b>
<b>I.</b>	<b>Introduction</b>	<b>page 2</b>
<b>II.</b>	<b>Filing Requirements and General Instructions</b>	<b>page 2</b>
<b>III.</b>	<b>Specific Instructions</b>	<b>page 5</b>
<b>IV.</b>	<b>Reminders</b>	<b>page 25</b>
<b>V.</b>	<b>Checklist/Transmittal Sheet for Manually Filed Applications</b>	<b>page 27</b>

**NOTICE TO INDIVIDUALS**

Section 54.504 of the Federal Communications Commission's (FCC) rules requires all schools and libraries ordering services that are eligible for universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator, which is the Schools and Libraries Division (SLD) of the Universal Service Administrative Company. 47 C.F.R. § 54.504. For purposes of this form, the Universal Service Administrator will be referred to as the "SLD" or "Fund Administrator." The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data collected in Form 471 will be used to ensure that schools and libraries are receiving the appropriate discounts, complying with the eligibility requirements in 47 C.F.R. § 54.501, and taking steps required by 47 C.F.R. § 54.504 that are necessary to use the discounted services effectively. All schools and libraries ordering services eligible for universal service discounts must file this form, individually or as part of a consortium.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be

- ***Manual Filing Instructions:*** You may complete and submit the Form 471 by filing a paper copy of the completed form with the Fund Administrator. One originally signed Form 471 must be filed with the Fund Administrator each time the applicant seeks a commitment of funding of discounts for a specific set of services eligible for discounts under the universal service discount mechanism that it has ordered. The originally signed Form 471 must be filed with the Fund Administrator **at the address listed at the bottom of the form: SLD-Form 471, P. O. Box 7026, Lawrence, Kansas 66044-7026.** For express delivery or U.S. Postal Service Return Receipt, send to **SLD-Form 471, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046,** phone (888) 203-8100. **DO NOT FILE THIS OR ANY OTHER UNIVERSAL SERVICE FORM WITH THE FEDERAL COMMUNICATIONS COMMISSION**
- ***Electronic Filing Instructions:*** You may complete and submit the Form 471 by filing the Form electronically online at the SLD Web Site, <[www.sl.universalservice.org](http://www.sl.universalservice.org)>. If filing your Form 471 electronically, you must also complete and mail to the SLD the following documents in order to successfully complete the submission of your Form 471 application:
  - the Item (21) description(s) of services, and
  - a paper copy of the Block 6 Certification, completed and signed with an original ink signature

You may file more than one Form 471. For example, you may file one Form 471 for internal connections, one for Internet access, one for high bandwidth video conferencing, and one for other telecommunications services. Alternatively, you may file a single Form 471 that includes any combination of these services. As the billed entity for services requested on one or more Forms 470, you may combine services requested on multiple Forms 470 into one Form 471, or you may file a corresponding Form 471 for each Form 470 filed on your behalf.

Please refer to the detailed instructions for more information about these procedures.

### **C. Assistance in Completing This Form**

There are several sources of assistance to guide you in completing this form. If you complete this Form electronically online at the SLD Web Site at <[www.sl.universalservice.org](http://www.sl.universalservice.org)>, you will be assisted in the process by special step-by-step online instructions and help screens. Whether you file online or on paper, you are urged to consult the Reference Area of the SLD Web site, <[www.sl.universalservice.org](http://www.sl.universalservice.org)>, for guidance in completing this form. Those without Web access may obtain similar guidance material via the SLD's toll-free fax-on-demand service, **800-959-0733**. Further information is available from the SLD Client Service Bureau via toll-free telephone at **888-203-8100**; via e-mail at [question@universalservice.org](mailto:question@universalservice.org); or via fax at **888-276-8736**.

**EXHIBIT F**

FCC FORM 471 APPLICATION ELECTRONICALLY SUBMITTED  
BY NORTH DAKOTA – FRONT PAGES AND BLOCK 6

[HOME](#) [CANCEL](#) [SAVE & EXIT](#) [HELP](#)**FCC Form 471**

Services Ordered and Certification Form

[Block 1](#)[Block 2 & 3](#)[Block 4](#)[Block 5](#)[Block 6](#)

Applicant's Form Identifier: SNET2001

Entity Number: 154332

Contact Person: Jerry Fossum

Phone Number: (701) 328-3190

**IMPORTANT**

Please record this application's information in a secure place for future reference

471 Application Number: 245592

Entity Number of Billed Entity (Applicant): 154332

Security Code Number 33405

[Continue >>](#)

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Schools and Libraries Division

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**Schools and Libraries Universal Service Program  
Services Ordered and Certification Form 471  
Application Display**

[Refresh Page](#)
[Close Print Preview](#)

**Block 1: Billed Entity Information**

**Applicant's Form Identifier:** SNET2001

**471 Application Number** 245592 **Funding Year:** 07/01/2001 - 06/30/2002 **Billed Entity Number:** 154332

**Name** ND School Net

**Address:** P O Box 5164

**City:** Fargo **State:** ND **Zip:** 58105 5164

**Phone:** 701-231-9682 **Ext:**

**Fax:** 701-231-8541

**E-mail:** wwermage@sendit.nodak.edu

**Contact Name:** Jerry Fossum

**Address:** 600 E Boulevard Avenue - Department 112

**City:** Bismarck **State:** ND **Zip:** 58505 0100

**Contact Phone:** 701-328-3190 **Ext.:**

**Contact Fax:** 701-328-3000 **Ext.:**

**E-mail:** jfossum@state.nd.us

**Contact Mode:** MAIL

**Alternate Contact Info.**

**Type of Application:** CONSORTIUM

**Ineligible Orgs:** N

**Block 3: Impact of Services Ordered in THIS Application**

**Number of students to be served:** 112912

**Number of library patrons to be served:** 314000

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b High-bandwidth voice/data/video service How many buildings served before and after your order?	250	402
c High-bandwidth voice/data/video service Highest speed to a building before and after your order?	FR T1	ATM T1
f Direct connections to the Internet How many before and after your order?	9	15
g Direct connections to the Internet Highest speed before and after your order?	FR T1	ATM T1
h Internet access(for schools) How many rooms have Internet access before and after your order?	2516	5200
i Internet access (for libraries) How many buildings have Internet access before and after your order?	0	103

HOME

CANCEL

HELP

**FCC Form 471**

Services Ordered and Certification Form



Applicant's Form Identifier: SNET2001

Entity Number: 154332

Contact Person Jerry Fossum

Phone Number: (701) 328-3190

**Block 6: Certifications and Signature**

Do not write in this area

471 Application Number: 245592

**24. The entities listed in Block 4 of this application are eligible for support because they are: (check one or both)**

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, 20 U S C Secs 8801(14) and (25), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million, and/or
- b. ☒ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to) elementary and secondary schools, colleges and universities

**25. The eligible schools and libraries listed in Block 4 of this application have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services**

**26. All of the schools and libraries or library consortia listed in Block 4 of this application are covered by:**

- a. ☐ an individual technology plan for using the services requested in this application, and/or
- b. ☒ higher-level technology plan(s) for using the services requested in this application, or
- c. ☐ no technology plan needed, applying for basic local distance telephone service only

**27. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):**

- a. ☒ technology plan(s) has/have been approved, and/or
- b. ☐ technology plan(s) will be approved by a state or other authorized body, or
- c. ☐ no technology plan needed, applying for basic local and long distance telephone service only

**28. I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurements of services for which support is being sought**

**29. I certify that the services the applicant purchases at discounts provided by 47 U S C Sec 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value**

30. I certify that the entity(ies) I represent has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments

31. I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service receive an appropriate share of benefits from those services

32. I recognize that I may be audited pursuant to this application. I will retain for five years any and all worksheets and other records that I rely upon to fill out this application, and, if audited, will make available to the Administrator such records

33. I certify that I am authorized to submit this request on behalf of the above-named institution, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true

34. Signature of authorized person

35. Date

36. Printed name of authorized person **Wayne Wermager**

37. Title or position of authorized person **Networking Specialist**

38. Telephone number of authorized person **(701) 231-9682**

**471 Application Number: 245592**

**ND School Net**

**P O Box 5164**

**Fargo, ND 58105 -5164**

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U S C Secs 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U S C Sec 1001

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE TO INDIVIDUALS: Section 54.504 of the Federal Communication Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation of potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC, or (b) any employee of the FCC, or (c) the United States Government, is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the federal government, the taxpayer identification number (such as your social security number) and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

With the exception of your social security number, if you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 95-79, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of

Information: Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, D C 20554

Please submit this form to  
SLD - Form 471  
P O Box 7026  
Lawrence, KS 66044-7026

For express delivery services or U S Postal Service, Return Receipt Requested, mail this form to  
SLD - Form 471  
C/O Ms Smith  
3833 Greenway Drive  
Lawrence, KS 66046  
(888) 203-8100

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Schools and Libraries Division

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## CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2003, I caused copies of the foregoing **Petition for Reconsideration** to be delivered, by hand, to the following:

The Honorable Michael K. Powell  
Chairman, Federal Communications Commission  
445 12<sup>th</sup> Street, S W.  
Washington, DC 20554

The Honorable Kathleen Q. Abernathy  
Commissioner, Federal communications Commission  
445 12<sup>th</sup> Street, N W  
Washington, DC 20554

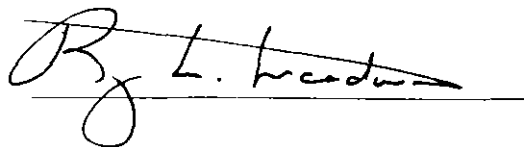
The Honorable Michael J. Copps  
Commissioner, Federal Communications Commission  
445 12<sup>th</sup> Street, N W.  
Washington, DC 20554

The Honorable Kevin J. Martin  
Commissioner, Federal Communications Commission  
445 12<sup>th</sup> Street N W.  
Washington, DC 20554

The Honorable Jonathan S. Adelstein  
Commissioner, Federal Communications Commission  
445 12<sup>th</sup> Street, N W  
Washington, DC 20554

Universal Service Administrative Company\*  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981 (via US Mail)

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S W , Room 5-C867  
Washington, DC 20554



A handwritten signature in black ink, appearing to read "R. L. Lueders", is written over a horizontal line.